IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15323 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ARVINDKUMAR KASHIRAM PATEL

Versus

ANAND AGRICULTURE UNIVERSITY

Appearance:

1. Special Civil Application No. 15323 of 2004

MR SP MAJMUDAR for Petitioner No. 1

MR DG CHAUHAN for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

MR BS BRAHMBHATT for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 01/03/2005

ORAL JUDGEMENT

#. In this petition filed under Article 226 of the Constitution of India, the petitioner has challenged the action of respondent Nos.1 and 2 in giving admission to respondent No.3 - Vinaben Muljibhai Kapadia on the ground that though he was placed at serial No.1 in the wait list for selection to the special course i.e. Animal Husbandry Training Course, he is not given the admission.

#. It is argued by Mr.Majmudar, learned advocate appearing for the petitioner that one Patel Dilipkumar Jayantilal, who has also got 85% for the purpose of getting admission, has been given admission and the petitioner, who is having 85% marks, is not given admission though both of them are having the same marks. It is required to be noted that so far as admission to the said Patel Dilipkumar Jayantilal is concerned, it is not challenged by the petitioner in the present petition nor the said Patel Dilipkumar Jayantilal is joined as party respondent in the present petition.

#. Mr.Majmudar has further submitted that in view of the fact that respondent No.3 has taken the subject of Physical Education in Standard 10, she cannot be considered to be Physically Handicapped candidate and for that purpose, he has relied upon the circular / instructions issued by the Gujarat Secondary Education Board which is at page 25 of the compilation. The said argument is misconceived in view of the fact that by the said circular / instruction, it cannot be said that the candidate who has taken the subject of Physical Education in Standard 10 cannot be considered to be Physically Handicapped candidate and this will be misreading of the circular issued by the Gujarat Secondary Education Board.

#. In response to the notice issued by this Court, Mr.D.G.Chauhan, learned advocate, appears for respondent Nos.1 and 2 and Mr.Brahmbhatt appears for respondent No.3. In the affidavit-in-reply, it is submitted that there are only three seats which are required to be filled in by respondent Nos.1 and 2 for Animal Husbandry Training Course and those seats are filled in strictly in accordance with the merits and so far as respondent No.3 is concerned, she has got 85.43% for the purpose of getting admission and so far as petitioner is concerned, he has got 85% for the purpose of getting admission. Under the circumstances, it cannot be said that any illegality is committed by respondent Nos.1 and 2 in giving admission to respondent No.3 who is also handicapped candidate.

#. Under the circumstances, there is no substance in the

present petition and the same is required to be dismissed and accordingly, the same is dismissed.

(M.R.Shah,J)

(pathan)